



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

February 21, 2023

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Ernie Moran**
Tax Registry No. 956950
Bronx Court Section
Disciplinary Case Nos. 2020-22306 & 2020-22335

The above named member of the service appeared before Deputy Commissioner, Trials Rosemarie Maldonado on October 12, 2022 and was charged with the following:

DISCIPLINARY CASE NO. 2020-22306

1. Said Police Officer Ernie Moran, assigned to Police Service Area 1, while off-duty, on or about July 5, 2020, within the confines of Queens County, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer Ernie Moran caused damage to the property of [a third person]

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT
GENERAL REGULATIONS**

2. Police Officer Ernie Moran, assigned to Police Service Area 1, while off-duty, on or about July 5, 2020, within the confines of Queens County, did consume an intoxicant to the extent that said Police Officer was unfit for duty.

P.G. 203-04, Page 1, Paragraph 2

FITNESS FOR DUTY

DISCIPLINARY CASE NO. 2020-22335

1. Said Police Officer Ernie Moran, while assigned to PSA 1, on or about and between April 1, 2020 and July 5, 2020, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Moran sent multiple threatening or harassing text messages to [redacted] LS

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

2. Said Police Officer Ernie Moran, while assigned to Police Service Area 1, on or about and between April 1, 2020 and July 5, 2020, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Moran stalked [REDACTED] LS
P.G. 203-10, Page 1, Paragraph 2

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

In a Memorandum dated December 9, 2022, Deputy Commissioner, Trials Rosemarie Maldonado found Police Officer Ernie Moran guilty of all Specifications in Disciplinary Case Nos. 2020-22306 and 2020-22335, after Police Officer Moran entered a plea of guilty to all Specifications. Having read the Memorandum and analyzed the facts of this matter, I approve of the findings, and the penalty recommendation that Police Officer Moran be separated from the Department by way of vested interest retirement.

Thus, an *immediate* post-trial settlement agreement will be implemented with Police Officer Moran in which he shall forfeit thirty (30) suspension days (already served), forfeit all time and leave balances, cooperate with counseling, be placed on one (1) year dismissal probation, and immediately file for vested interest retirement.

Such vested interest retirement shall also include Police Officer Moran's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Police Officer Moran does not agree to the terms of this vested interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY**.



Keechant L. Sewell
Police Commissioner



POLICE DEPARTMENT

December 9, 2022

-----X

In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	2020-22306
Police Officer Ernie Moran	:	2020-22335
Tax Registry No. 956950	:	
Bronx Court Section	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Rosemarie Maldonado
Deputy Commissioner Trials

APPEARANCES:

For the Department: Kevin Andrade, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

Jamie Moran, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Michael F. Dailey, Esq.
One Riverdale Avenue, Suite One
Bronx, NY 10466

To:
HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2020-22306

1. Said Police Officer Ernie Moran, assigned to Police Service Area 1, while off-duty, on or about July 5, 2020, within the confines of Queens County, did wrongfully engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer Ernie Moran caused damage to the property of a [third person].

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT-
PROHIBITED CONDUCT
GENERAL REGULATIONS

2. Said Police Officer Ernie Moran, assigned to Police Service Area 1, while off-duty, on or about July 5, 2020, within the confines of Queens County, did consume an intoxicant to the extent that said Police Officer was unfit for duty.

P.G. 203-04, Page 1, Paragraph 2

FITNESS FOR DUTY

Disciplinary Case No. 2020-22335

1. Said Police Officer Ernie Moran, while assigned to PSA 1, on or about and between April 1, 2020 and July 5, 2020, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Moran sent multiple threatening or harassing text messages to LS.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT-
PROHIBITED CONDUCT

2. Said Police Officer Ernie Moran, while assigned to Police Service Area 1, on or about and between April 1, 2020 and July 5, 2020, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Moran stalked LS.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT-
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 12, 2022. By stipulation of the parties, the record remained open until November 4, 2022, to give Respondent an opportunity to submit supplemental information. Respondent, through his counsel, entered a plea of Guilty to the subject charges, and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the evidence in this matter, I find Respondent Guilty of the charged misconduct and recommend forced separation as the appropriate penalty.

SUMMARY OF EVIDENCE IN MITIGATION

It is uncontested that Respondent and LS were in a romantic relationship that ended in May 2020. According to Respondent, approximately one month later she gave him a "second chance." (Tr. 20-22, 73) The charged misconduct centers around two violent encounters initiated by Respondent, and his stalking of LS, in June and July 2020.

The first incident occurred on June 21, 2020. That evening, Respondent went out with a friend to have drinks at a sports bar. LS did not accompany him because she professed to be "at her house busy doing stuff." That same evening, Respondent spotted LS in the passenger seat of a vehicle driven by another male and "figured it was a new boyfriend." Respondent testified that after consuming alcohol, he was in an admittedly "emotional" state. Out of "frustration," he threw his drink at the vehicle and challenged the male "to come out of the car." The male exited and a physical altercation ensued. Respondent claimed that the male threw the first punch. (Tr. 20-27, 30, 73-80)

Part of that altercation was captured on video. Department Exhibit 12 showed Respondent speaking aggressively to the male as they both stood in the street mere inches away

from each other. The video then jumped and continued at the point where both men were already throwing punches. LS's brother tried to separate them, but the male broke loose and landed another punch on Respondent. They both fell back onto the hood of the car and rolled off onto the street. The male continued to punch and kick Respondent as he lay on the ground. After that fight, Respondent used his Department cell phone to run the male's license plate with the intention of giving LS a "heads up of who she's dating." Thereafter, LS again ended her relationship with Respondent. (Tr. 20-27, 30, 73-80; *See* Dept. Ex. 12)

The second incident occurred less than two weeks later. It is uncontested that on July 4, 2020, Respondent was again drinking with friends as he patronized several different drinking establishments. During the course of that evening, he walked to LS's home. At approximately 2004 hours, he texted LS concerning the male involved in the June 21 altercation. A copy of those texts, and their translation, are in evidence.¹ In them, Respondent asked LS to "Tell [the male] not to go to Northern tonight nor to Mora or Yaras or I will hit him. I like to make show...[laughing emojis]"² At trial, Respondent testified that by "show" he meant that he was going to "show up and fight him." LS wrote back, "Stop the show" and informed Respondent that she was no longer dating the male. Respondent continued to insist that she bring the male outside, writing, "I'm bringing my knife and my gun [laughing emojis]" and "When I see him I kill him. [laughing emojis]" At trial, Respondent explained that the emojis were inserted to communicate that he was "kidding around" and that his intent "was not to cause harm." (Tr. 32-33, 39-40, 49, 67-71) His next communication, however, was, "I'm serious," without any added emojis. (*See* Dept. Exs. 10, 11)

¹ The original text messages between Respondent and LS are in Spanish. A certified interpreter translated them into English but did not include emojis in that document. (Dept. Exs. 10, 11)

² This text names the establishments Respondent was drinking at that evening.

Respondent testified at trial that he went to LS's home "three or four times" that night and "started calling her name out" and "calling for her to come out" to "confront" her. He also phoned and when LS answered, she told him to "leave her alone." The texts that followed revealed Respondent's growing irritation. At 2148 hours he texted, "I'm on my way" and at 2202 hours announced, "I'm in front of your house." After not getting a response from LS, he wrote, "Pick up. Bitch ass. If I see you. [laughing emojis]." At 2223 hours, LS replied, "What shit are you doing. Don't bother me because I don't bother you." When he reiterated that he was in front of her home "waiting," LS wrote, "wait until next week when I arrive. And as soon as I arrive a lawsuit you get." Respondent's answer was to call her "Whore." Their text interchange ended at 0259 hours the following morning. During that exchange, LS repeatedly asked him not to "get involved in [her] life" and expressed concern for her brother's safety. (Tr. 42-45, 71; Dept. Exs. 10, 11)

Late into the evening, the building owner came out and confirmed that LS was not home. Respondent initially complied with the building owner's request to leave. However, soon after Respondent returned and escalated the encounter to a "verbal dispute." During the course of that argument with the owner, Respondent threw a large 50-pound planter through the glass of the front door, causing it to shatter. In addition, the heavy planter damaged the area flooring. Respondent then left, but returned, this time to the side entrance of the wrong house on the same block. There, Respondent resumed his "aggressive" knocking and broke a window. The total cost of repairs was estimated to be \$22,040. (Tr. 49-53, 80-83; Dept. Exs. 6, 7)

Within an hour, Respondent was arrested at his home. At the time of his arrest, a sergeant and captain determined that Respondent was intoxicated and unfit for duty. (Dept. Exs. 8, 9). Respondent pled guilty in Supreme Court to criminal mischief in the fourth degree, was ordered to pay \$22,040 in restitution for the property damage, and was required to complete

counseling for domestic violence, anger management and substance abuse. (*See* Tr. 54-57, 85-86; Dept. Ex. 1; Resp. Ex. A) Four orders of protection were issued³ which prohibit Respondent from carrying a firearm for five years. Respondent filed a motion in Supreme Court requesting that the orders of protection be modified to permit him to carry a firearm while on-duty. Respondent's motion was denied on November 2, 2022. The orders of protection remain in effect until December 9, 2026. (Dept. Exs. 2-5)

PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment record was also examined (*see* 38 RCNY §15-07). Information from his personnel record that was considered in making this penalty recommendation is in an attached memorandum.

Respondent, who was appointed to the Department on July 9, 2014, pled Guilty to: stalking and sending threatening and harassing texts to LS; consuming intoxicants to the extent that he was unfit for duty; and, causing significant damage to the property of third parties. The Department Advocate argues that, given the totality of the circumstances, termination is warranted. For the reasons set forth below, this tribunal agrees that Respondent can no longer maintain his status as a member of service, but recommends forced separation as the appropriate penalty in this case.

³ These orders were issued on the behalf of LS, LS's brother, the building owner, and the owner of the second house he damaged by breaking the window. (Tr. 83-84)

Respondent's repeated and egregious misconduct is clearly prejudicial to the good order and efficiency of the Department. On two separate occasions, he engaged in uncontrolled violence aimed at terrorizing a former romantic partner. When Respondent saw her in a car with another male, he became aggressive in her presence and instigated a physical fight with the other male resulting in both men rolling in the street as they came to blows.

Respondent's misconduct did not end there. About two weeks later, while in a drunken stupor, he walked to LS's house uninvited, warned her that he was carrying a knife and gun and threatened to kill the man he had already fought with out of jealousy. Over the course of four hours, he also stalked and humiliated LS with disturbing text messages containing abusive language and stubbornly remained in the street outside her home yelling into the late hours of the night. Time and again, he left and returned, even after the building owner informed him that LS was not in her apartment. In fact, he came back to argue a second time with the building owner and violently threw a 50-pound planter through the building's front door.

Incredibly, Respondent's rampage continued. After having caused significant damage to one building, he came back to the block, and in the middle of the night, broke the window of an unknown third party. In addition to the emotional toll of his behavior, the property damage amounted to \$22,040, which Respondent was ordered to pay in restitution when he pled guilty to criminal mischief.

This is not a case of a momentary lapse of judgement. What Respondent engaged in was a repeated and protracted jealous rampage that harmed a former romantic partner, as well as third parties who were merely bystanders. In fact, Respondent is guilty of various counts of misconduct, which, standing alone would carry significant penalties up to and including

termination.⁴ This tribunal further notes that, due to his misconduct, this uniformed member of service now has a criminal record and an order of protections issued against him that prohibits him from carrying a firearm for the next four years. Given the totality of circumstances, an aggravated penalty is warranted in this case.

Respondent's attempts to minimize the egregiousness of his misconduct were unpersuasive. For example, Respondent testified at trial that he included emojis after the threatening text messages to let LS know that he was "just kidding" and that there was "no intent to cause harm." This explanation defies both common sense and logic in light of the prior physical fight that he initiated in her presence and the frightening tone and humiliating words used in his texts. Also unavailing were the cases Respondent's counsel submitted in support of his argument that a mitigated penalty was justified. After careful review, it is clear that the conduct in this matter is far more egregious than the fact patterns cited.

This tribunal does acknowledge, however, that Respondent completed the court-ordered counseling programs and paid the required restitution. Specifically, he completed the Arms Acres Outpatient Alcohol Treatment Program in December 2020; the Queens Counseling for Change Program for Batterers in September 2022; the NYPD Domestic Incident Education Program in October 2020; and, the NYPD Substance Abuse Program in December 2020.

Respondent has also testified that this was a wakeup call for him and that he has been sober since about 2020. In light of these recent efforts, it is recommended that the Police Commissioner

⁴ The presumptive penalty for engaging in conduct proscribed by New York State law that is classified as a misdemeanor, is 30 penalty days, and the aggravated penalty is termination. The presumptive penalty for non-physical acts of domestic violence is 30 penalty days and other conditions; the aggravated penalty is termination. The penalties for engaging in conduct prejudicial to the good order and efficiency of the Department range from a mitigated penalty of training to an aggravated penalty of termination. The presumptive penalty for being unfit for duty is 30 penalty days, one-year dismissal probation, and other conditions; the aggravated penalty is termination. *Disciplinary Matrix*, pp. 20, 36, 46, 49

direct an immediate post-trial settlement negotiation, allowing Respondent to file for vested-interest retirement, along with whatever conditions she deems appropriate.

Respectfully submitted, *Sy JJA*

Rosemarie Maldonado

Rosemarie Maldonado
Deputy Commissioner Trials

APPROVED

[Signature]
FEB 21 2023
KEECHANT L. SEWELL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER ERNIE MORAN
TAX REGISTRY NO. 956960
DISCIPLINARY CASE NOS. 2020-22306 AND 2020-22335

Respondent was appointed to the Department on July 9, 2014. On his three most recent annual performance evaluations, he was rated "Exceeds Expectations" for 2019, 2020 and 2021.

Respondent has no disciplinary history. In connection with the instant matter, he was suspended without pay from July 5, to August 3, 2020, and was placed on Level 2 Discipline Monitoring in March 2022. Monitoring remains ongoing.

For your consideration.

By JJA
/s/ Rosemarie Maldonado

Rosemarie Maldonado
Deputy Commissioner Trials